

MINUTES

UTAH BOARD OF MASSAGE THERAPY Meeting

**November 15th, 2011
Room 464 – Fourth Floor – 9:00 a.m.
Heber M. Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:00 a.m.

ADJOURNED: 12:32 p.m.

Bureau Manager:

Sally A. Stewart

Board Secretary:

Sally Canavan

Board Members Present:

Sharon Muir, Chairperson
Hal Morrell
Carolyn Redington
Craig M. Sauer
Jennifer Hanna

Board Members Excused:

None

Guests:

Roger Olbrot, Myotherapy College of Utah
Thomas L. Shurts, Support for Caroline Cluff
Ron Findlay, AMTA – Utah Chapter
Susan DeLegge, AMTA – Utah Chapter
Debbie Luk, EnKA
Tammy Davis, EnKA
Zack Beitler, Self
Ronald Waymen, EnKA
Marge Bowen, EnKA
Ione Horlacher, EnKA
Allyson Robinson, DOPL
Kirk Jorgensen, AMTA – Utah Chapter
Caye Reans, Reiki
Michael King, EnKA

DOPL Staff Present:

Neena Bowen, Compliance Specialist
Tracy A Naff, Secretary for the Lien Recovery Fund

**ADMINISTRATIVE BUSINESS:
MINUTES:**

DECISIONS AND RECOMMENDATIONS

The minutes from the September 20th, 2011 meeting were reviewed. Ms. Redington made a motion, seconded by Ms. Hanna to approve the minutes with corrections. The motion passed unanimously.

PROBATION INTERVIEWS:

Jennifer Anna Boley

Ms. Redington interviewed Ms. Boley. She came to the Board and brought her employer report. She stated she is working for 20 to 30 hours; she prefers working in the morning. She stated she usually has 15 to 20 clients per week and is hoping work picks up with the opening of the ski season. She stated she has even given cab drivers her business cards to hand out to people. The Board noted they had received documentation of her CNA certification. She stated CNA is hard work especially for short people. She stated working at a Home Health Care for older people is kind of a sad job. The Board noted several hospitals have "now hiring" signs and notifications. The Board noted she needs to be aware of what she really wants. The Board requested to see her at the January 17th, 2012 meeting. **Compliant**

Meghan Marie Elvin

Ms. Hanna interviewed Ms. Elvin. She stated she is doing lovely. The Board noted her next employer report is due December 1st, 2011. She requested her employers be allowed to mail in employer reports. The Board noted that was fine. She stated she is currently working in the field, about 32 hours per week. She stated she has changed her pattern for calling in; she does it first thing in the morning. The Board noted she is doing great and suggested she keep doing well, especially through the holiday season, noting that time of year could be considerably harder with the stress of the holiday. Ms. Hanna requested please be careful to stay compliant. The Board requested to see her at the January 17th, 2012, meeting.

Compliant

Caroline Cluff Hanlin

Mr. Sauer interviewed Ms. Hanlin. Mr. Sauer read a letter from Ms. Hanlin to the Board. The Board noted they would like her to get through the holidays, which can be a tough time. She stated every day she is off, they go fishing. The Board noted her employer reports are changing; they will be due bi-monthly after the one due December 1st, 2011. Ms. Hanlin has set a goal of 30 massages per week. She stated it is too much to work six days with only one day off. The Board noted her 12-step program was done online and completed. She stated her daughter is looking forward to going to Job Core; she will be able to get her diploma, drivers training and they will train her for a vocation. She stated she is so thankful for all she has. She stated she has her six month chip - 195 days and showed it to the

Caroline Cluff Hanlin (continued)

Board. She stated drinking is not a part of her life anymore. It is wonderful to wake up sober. She stated even her friends that are still drinking are supportive of her being sober. Mr. Shurts added Caroline has a fan base when she sings karaoke, her voice is very clear. He noted he and Caroline find they are leaving the karaoke earlier, about 10:30 p.m., and spending more time at home. She stated she has plans to go to her parent's house in St. George for Thanksgiving. The Board noted they had received and discussed her letter requesting early release from probation. The Board decided they wanted to at least get her through the holidays. The Board also noted she looks very happy. The Board requested to see her at the January 17th, 2012 meeting. **Compliant**

Heather Lynn Holmes

Ms. Holmes did not come in for her appointment. The Board discussed an Order to Show Cause or a Voluntary Disciplinary Surrender Stipulation and Order to include that she not reapply for a minimum of three years. The determination of whether to put a licensee on probation or not has to do in part, with the alleged incident, how long ago the incident occurred, the history following the incident. Hopefully, by waiting to reapply, it would establish a pattern of behavior. At that point it would be determined if they needed to be on probation or not. Mr. Sauer made a motion, seconded by Mr. Morrell, for an Order to Show Cause or Voluntary Surrender Stipulation and Order to be processed. The motion passed unanimously.

Non-Compliant

Aaron Thomas Keefe

Mr. Morrell interviewed Mr. Keefe. He started his interview with an apology stating that when he called Affinity (our drug testing provider) a recording told him the service was temporarily offline and he got caught up at work and did not get back to it. Then he missed a call on Saturday. The Board noted he needs to get his 12-step program recorded through the Affinity online program. He stated he has been doing the program and Affinity helped him get it recorded. Ms. Bowen stated she has not seen it. She recommended the next time he does the program, he should call her and she will look and see immediately if it is there or not and she will help him work it out. The Board noted his employer reports are going to be due quarterly. He stated he is still at Kimberly Clark; he had to take some time off for a pinched nerve in his shoulder and then took some more time off to finish up

Aaron Thomas Keefe (continued)

yoga school. He also has to do 40 hours of community service. They want him to bring the yoga program outside the school to the public. He stated he also needed more hours of meditation. He stated he is not doing massage right now. The \$70.00 for testing is a little steep right now. He noted the Affinity program is a little more complex. The Board reminded him the certification on his license was done through the NCBTMB. The Board also reminded him to enjoy the holidays. The Board requested to see him at the January 17th, 2012, meeting. **Compliant**

Scott K. Morrison

Ms. Muir interviewed Mr. Morrison. He stated he has just figured out how to run the computerized parking meter out in front of the Heber Wells building. He stated he is doing all right. He stated he is working hard, seeing 8-12 clients per week, doing a lot of injury rehabilitation clients so he is doing deep tissue massages and they take more time, 90 minutes to 2 hours. The Board noted they have all his reports supervisor reports are outstanding. The Board noted after today his reports will be bi-monthly and at this point every thing seems to be in order. He stated he is still using Kathryn as his chaperone. The Board noted he was very lucky to have her. The Board requested to see him at the January 17th, 2012, meeting. **Compliant**

Alice Eileen Ray

Ms. Ray did not come in for her appointment with the Board. The Board noted she came in for her initial appointment with the Board on September 20th, 2011, and then seven days later tested positive. The Board noted she had missed several tests. The Board noted in addition she had no permanent home or address or car. The Board historically has requested the Compliance Unit send a non-compliance letter. Ms. Bowen said she would call her to see what is going on and follow-up. The Board requested to see her at the January 17th, 2012, meeting. **Non-Compliant**

Charla Michele Tuttle

Ms. Redington interviewed Ms. Tuttle by telephone. She lives in Enoch, Utah. She stated she is ready for her interview. The Board had a couple of questions on employer report. She stated she was off-call, not taking appointments, and that because of she lives an hour away by car, she needs two hours notice for an appointment. The employer had called with only one hour notice and that to drive two hours both ways for

Charla Michele Tuttle (continued)

30 minute appointment would not even pay for her gas. She called her employer explained the situation; the employer stated she would handle it. Ms. Tuttle came in to work at her next regularly scheduled time and her employer did not act like there was a problem or talk to her about it or anything. She stated she gets the breathalyzer off her car tomorrow, she actually was released from the restriction on November 11th, but she has to wait till tomorrow when someone will be available to disconnect it. Everything seems to be going well; the resort opens on Saturday. She stated she is hoping to be getting into the busy season for the resort. The Board noted they are not concerned with one negative employer comment. The Board wished her a good Thanksgiving. The Board told her next interview would be January 17th, 2012. If she stays in compliance and depending on the weather it could be a telephone interview. The Board will need to see her in person for the next interview, tentatively scheduled for March 20th, 2012. **Compliant**

NEW STIPULATIONS:

Zachary Timothy

Mr. Timothy was excused until the next meeting. He has been very compliant with everything the Division has requested even though he has not yet met with the Board. He stated he had mandatory attendance at work at this time.

DISCUSSION ITEMS:

**Qualifications for Licensure –
Zack Beitler, Chiropractic Physician and
Registered Nurse**

Mr. Beitler was present for the discussion of his request for a Massage Therapy license. He stated he was a Registered Nurse and Chiropractic Physician and would love to get a Massage license. He stated the continuing education courses and the malpractice insurance for a Chiropractic Physician was too expensive. He stated with the courses he has previously taken he thinks he has the hours for licensure as a Massage Therapist. The Board told him that in accordance with the Massage Therapy Practice Act, an applicant for licensure must have graduated from a school of massage therapy having a curriculum which meets standards established by the Division Rule made in collaboration with the Board. In other words, graduation must come from a license massage therapy school and an accredited college. Although, he has graduated from an accredited college it does not have the same curriculum requirement as a massage therapy school and does not meet the curriculum requirements. The Division is not going to pick and choose

**Qualifications for Licensure –
Zack Beitler (continued)**

components from someone's education that would fit into massage training. The Board suggested he go to a massage therapy school and let them choose what courses they will accept. The Board discussed that if he chooses to do an apprenticeship he will need to start at the very beginning with hour number one.

Apprenticeship Transfer Options

Ms. Muir noted she was contacted by a woman requesting information as to what was the protocol when a massage therapist supervisor had an apprentice and the supervisor passed away. Ms. Muir referred her to the Laws and Rules. The woman called back and asked what would happen if an apprentice was in the middle of a massage and the supervisor died? The Board discussed possible options stating that was why it was so important to keep up to date on the apprentice training records. There is, within the Rule the Standards for a Supervisor as well as in the Standards for an Apprentice. They must keep a daily record of training. It also mentions to notify the Division within ten days if the apprenticeship is terminated. The Board discussed that if a student is in school and an Instructor leaves or passes away there is no problem with training; it just continues with another Instructor at the school. The Board discussed how the supervisor and the apprentice should be working together on alternatives in the event of possible demise, etc. The Board noted the discussion of this topic sets precedence for the future. The Board decided in these extreme circumstances another supervisor could be used to complete the apprenticeship training with an approved curriculum.

Distance Learning

The Division has received an application for licensure from an individual, having graduated with 600 hours of training from an online school, US Career Institute in Colorado. It is accredited by the Distance Education and Training Council and is recognized by the United States Department of Education. The curriculum of the school does not meet the specifics of the Rule. That, at present, is the only reason that this applicant has not been licensed. It was an incomplete application because it was an incomplete education. He, the applicant, may meet the education qualification by attending another school. He would then be fully qualified to be licensed even though Distance Education is the primary source of the education. This

Distance Learning (continued)

issue was raised a while ago and not really addressed. It has now been raised again. The Board discussed and changed the Rule in 2011 to define hands on instruction because of concerns raised. The Rule as it currently reads states that the curriculum has to include hand on instruction in massage techniques but did not specifically exclude Distance Learning. The Board discussed the question of the hands on instruction when it is listed in the transcripts. The issue that arises is “direct supervision” with an online school. Mr. Sauer made a motion, seconded by Ms. Redington, to table this discussion. With Ms. Hanna casting a dissenting vote, the motion carried. The Board recommended additional research be done and Mr. Sauer stated he will do some research for the Board.

Rule Changes

The Board and the Public members in attendance discussed Rule changes. The present recommendation is to add to the definitions within Rule a definition for “manipulation”. The Board discussed the definition of manipulation as used in UCA §§ 58- 47b-102- 6 (b). The definition of manipulation was agreed upon from the last Board meeting to mean “contact with movement involving directly touching the clothed or unclothed body”. This definition evolved from the question of ‘What is Reiki?’ The Board discussed that rather than define levels of touch it would be better to define manipulation. The Board feels the Rule needs the definition of manipulation because of Reiki practices. The Board discussed how there are many Reiki practioners doing legitimate Reiki practices with energy transference, etc. The Board also discussed the Reiki title, as a business, is being used as a front for prostitution. The Board discussed how if they cannot define what massage therapy is then it will be left to the courts to make a definition of what is and what is not massage therapy. The Board then loses the ability to make any changes in the Rule; and if we don’t define “manipulation” then people will say they are not doing massage. The Board discussed when getting a massage you generally pay afterwards while when getting a so-called “Reiki” treatment you generally pay before. Presently when a complaint is received by DOPL, an investigator will go out and determine if it is a legitimate concern or just a disgruntled customer. Ms. Hanna made a motion to accept the definition of manipulation as written. There was no second so the

Rule Changes (continued)

motion died. The Board discussed omitting the word “direct” in the definition and included that change in a motion made by Mr. Sauer that we move forward with the rule change with the slight modification of manipulation as used in subsection 58-47b-102-6(b) means contact with movement involving touching either the clothed or unclothed body. Mr. Sauer’s motion was seconded by Mr. Morrell. The motion passed unanimously. The public visitors were invited to attend the Rule Hearing if they are interested.

NEXT SCHEDULED MEETING:

Tuesday, January 17th, 2012

ADJOURN: 12:32 p.m.

(no motion required)

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

01/17/2012
Date Approved

(ss) Sharon Muir
Chairperson
Board of Massage Therapy

01/17/2012
Date Approved

(ss) Sally Stewart
Bureau Manager
Division of Occupational & Professional Licensing